IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 52 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MEHSANA DISTRICT CO-OP. MILK PRODUCERS UNION LTD.
Versus
COMMISSIONER OF INCOME-TAX

Appearance:
MR JP SHAH for the Petitioner
MR AKIL QURESHI for MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 02/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the assessee as well as the

revenue, the following 4 questions have been referred to this court for its opinion by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A', under the provisions of sec. 256(1) of the Income-tax Act, 1961.

At the instance of the assessee :

1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in its interpretation and application of sec. 35C of the Income-tax Act, 1961 ?

2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that entire expenditure as claimed by the assessee for both the years under reference was not eligible for weighted deduction u/s 35C of the Income-tax Act?

3. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that only 10% of the expenses incurred on dissemination of information or demonstration of modern techniques and methods of agricultural, animal husbandry or dairy or poultry farming or advice on such technique or method is eligible for deduction u/s 35C of the Income-tax Act?

At the instance of the revenue :

4. Whether the Appellate Tribunal has been right in law and on facts in coming to the opinion that the relief under sec. 35C of the Income-tax Act, 1961 requires to be granted to the assessee at 10% of the expenditure as claimed by the assessee for both the assessment years in question?

2. Learned advocate Shri J.P. Shah has appeared for the applicant-assessee whereas learned advocate Shri Akil Qureshi has appeared for the revenue.

3. The learned advocates have submitted that all the four questions which have been referred to in this reference have already been answered by this court in ITR No. 32/87. Accordingly, we answer all the questions in the negative i.e. in favour of the assessee and against the revenue.

The reference thus stands disposed of with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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